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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,137	08/11/2003	Joseph B. Rissin		3404
7590	11/30/2004		EXAMINER	
STEPHEN E. FELDMAN, P.C. 12 East 41st Street New York, NY 10017			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/637,137	RISSIN ET AL.	
	Examiner Andre' L. Jackson	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 19-33 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 19-33 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 11 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/11/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION**Drawings**

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the opening in the base plate being threaded as recited in claim 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 22-26 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 2,653,367 to Orchoff. Orchoff discloses an ear nut or clasp (10) comprising;

a base plate (13) having an opening (24) for receiving a post (29) of an earring; first and second friction fingers (14, 15) for gripping the earring post, the gripping fingers extending from substantially opposing positions on the base plate; first and second gripping tabs (34, 35), wherein each of the tabs being a single strut, each tab having a first end connected to the base plate, on substantially opposing positions of the base plate, offset from the friction fingers; each of the tabs having a second end extending away from the first end; and a separator (33) attached to the second end of each of the tabs, the separator having a shape that clears the post of an earring.

As to claims 22, 25, 26, 29, 30 and 32, Orchoff discloses a two-piece stamped metal clasp, where the gripping tabs and the separator are made integral as a cover (12). The gripping tabs include ribs (37) along the gripping surface thereof and the separator has a semicircular shape. The friction fingers include free ends or projections (22, 23, 18) extending toward the opening in the base plate. At the first end of the gripping tabs locking pins (38, 39) project beyond the friction fingers to engage and secure with the base plate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orchoff. Orchoff does not specifically disclose that the separator, gripping tabs and base plate are secured together by solder technique. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to construct and join the working parts of Orchoff by soldering, since it has been held that forming or joining in one piece, components which has formerly been formed in two pieces and put together by a suitable technique (including fastening, soldering, welding, etc.) involves only routine skill in the art. Furthermore, applicant has not stated the soldered components solves any relevant problem or is for a particular purpose and the clasp of Orchoff operates equally as well.

Claims 20 and 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orchoff in view of USPN 4,796,443 to Bannister et al. Orchoff does not disclose that the opening in the base plate includes a funnel depression or that the opening is threaded to receive a threaded post. Bannister et al teaches an earring clip (10) comprising a back member (30) having a base plate (32), the base plate defining a funnel shaped central opening (34), which is threaded. A threaded post member (40) is secured to the base plate. When assembled, the post is set and is prevented

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from moving in lateral or vertical direction, thus protecting against unwanted detachment thereof if a force is applied to either the clasp or post. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the clasp of Orchoff to include the earring clasp of Bannister et al to provide a locking clasp wherein a post is set and is prevented from moving in a lateral or vertical direction, thus protecting against unwanted detachment if a force is applied to either the clasp or post.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Cheng and Adams et al disclose earring clasp devices, which may be used in combination to meet the limitations of applicant's base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677



ROBERT J. SANDY
PRIMARY EXAMINER